

MEMORANDUM

TO: Claire Powell, City Manager

FROM: Jim Proce, Assistant City Manager

DATE: April 25, 2023

SUBJECT: Approval of a Resolution of the City of Lewisville, Texas Finding That Texas-New Mexico Power Company's Application for Approval to Amend its Distribution Cost Recovery Factor to Increase Distribution Rates Within the City Should be Denied; Authorizing Participation With TNMP Cities; Authorizing the Hiring of Legal Counsel and Consulting Services; Finding That the City's Reasonable Rate Case Expenses Shall be Reimbursed by the Company; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of This Resolution to the Company and Legal Counsel.

BACKGROUND

The City is a member of a coalition of cities known as Cities Served by Texas-New Mexico Power Company ("TNMP Cities"). TNMP Cities have been an important group advocating before the Public Utility Commission and the Courts on electric utility regulation matters for a number of years. Member cities include Alvin, Barstow, Blue Ridge, Celeste, Coppell, Dickinson, Emory, Farmersville, Fort Stockton, Friendswood, La Marque, Lewisville and Texas City.

On April 5, 2023, Texas-New Mexico Power Company ("TNMP" or "Company") filed an Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF") to increase distribution rates within each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of \$14,800,834.

The resolution authorizes the City to join with TNMP Cities to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

ANALYSIS

It is recommended that TNMP Cities deny TNMP's requested increase to distribution rates because such increase is unreasonable. TNMP Cities have also engaged the services of Lloyd Gosselink, a third party legal consultant to review the Company's filing. The consultant will review the filing and identify adjustments that should be made to the Company's request.

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The Public Utility Commission of Texas's rules allow cities 60 days to act on this application. That deadline is June 2, 2023. The following is a summary of the proposed resolution by section:

- Section 1. This section authorizes the City to participate with TNMP Cities as a party in the Company's DCRF filing, PUC Docket No. 54807.
- Section 2. This section authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. Additionally, it authorizes TNMP Cities to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.
- Section 3. This paragraph finds that the Company's application is unreasonable and should be denied.
- Section 4. This section states that the Company's current rates shall not be changed.
- Section 5. The Company will reimburse Cities for their reasonable rate case expenses. Legal counsel and consultants approved by TNMP Cities will submit monthly invoices that will be forwarded to TNMP for reimbursement.
- Section 6. This section recites that the Resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.
- Section 7. This section provides that TNMP and counsel for TNMP Cities will be notified of the City's action by sending a copy of the approved and signed Resolution to counsel.

CITY STAFF'S RECOMMENDATION

That the City Council approve the resolution for denial as set forth in the caption above.